

By: Representatives McMillan, Hawkins,
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To: State Affairs;
Appropriations A

HOUSE BILL NO. 1371

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE FOR A FIRST RESPONDERS RETIREMENT INCENTIVE UNDER WHICH
 3 LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS WHO BECAME MEMBERS OF
 4 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2011,
 5 AND WHO HAVE AT LEAST FOUR YEARS OF MEMBERSHIP SERVICE CREDIT
 6 SHALL BE ENTITLED TO RECEIVE ONE ADDITIONAL YEAR OF CREDITABLE
 7 SERVICE FOR EVERY FIVE YEARS OF SERVICE AS A FIRST RESPONDER IN
 8 THE STATE OF MISSISSIPPI, AT NO COST TO THE MEMBER; TO AMEND
 9 SECTION 25-11-127, MISSISSIPPI CODE OF 1972, TO AUTHORIZE RETIRED
 10 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO BE EMPLOYED
 11 AS A LAW ENFORCEMENT OFFICER WITH A LAW ENFORCEMENT DEPARTMENT
 12 THAT HAS A CRITICAL NEED FOR OR SHORTAGE OF LAW ENFORCEMENT
 13 OFFICERS AND DRAW THE FULL AMOUNT OF THE RETIREMENT ALLOWANCE,
 14 DURING WHICH TIME THE RETIREE MAY WORK THE FULL NUMBER OF NORMAL
 15 WORKING DAYS FOR THE POSITION AND RECEIVE THE FULL AMOUNT OF THE
 16 SALARY IN EFFECT FOR THE POSITION AT THE TIME OF EMPLOYMENT; AND
 17 FOR RELATED PURPOSES.

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

19 **SECTION 1.** Section 25-11-109, Mississippi Code of 1972, is
 20 amended as follows:

21 25-11-109. (1) Under such rules and regulations as the
 22 board of trustees shall adopt, each person who becomes a member of
 23 this retirement system, as provided in Section 25-11-105, on or
 24 before July 1, 1953, or who became a member of the system before
 25 July 1, 2007, and contributes to the system for a minimum period



26 of four (4) years, or who became a member of the system on or
27 after July 1, 2007, and contributes to the system for a minimum
28 period of eight (8) years, shall receive credit for all state
29 service rendered before February 1, 1953. To receive that credit,
30 the member shall file a detailed statement of all services as an
31 employee rendered by him in the state service before February 1,
32 1953. For any member who joined the system after July 1, 1953,
33 and before July 1, 2007, any creditable service for which the
34 member is not required to make contributions shall not be credited
35 to the member until the member has contributed to the system for a
36 minimum period of at least four (4) years. For any member who
37 joined the system on or after July 1, 2007, any creditable service
38 for which the member is not required to make contributions shall
39 not be credited to the member until the member has contributed to
40 the system for a minimum period of at least eight (8) years.

41 (2) (a) (i) In the computation of creditable service for
42 service rendered before July 1, 2017, under the provisions of this
43 article, the total months of accumulative service during any
44 fiscal year shall be calculated in accordance with the schedule as
45 follows: ten (10) or more months of creditable service during any
46 fiscal year shall constitute a year of creditable service; seven
47 (7) months to nine (9) months inclusive, three-quarters (3/4) of a
48 year of creditable service; four (4) months to six (6) months
49 inclusive, one-half (1/2) year of creditable service; one (1)



50 month to three (3) months inclusive, one-quarter (1/4) of a year
51 of creditable service.

52 (ii) In the computation of creditable service
53 rendered on or after July 1, 2017, under the provisions of this
54 article, service credit shall be awarded in monthly increments in
55 a manner prescribed by regulations of the board.

56 (b) In no case shall credit be allowed for any period
57 of absence without compensation except for disability while in
58 receipt of a disability retirement allowance, nor shall less than
59 fifteen (15) days of service in any month, or service less than
60 the equivalent of one-half (1/2) of the normal working load for
61 the position and less than one-half (1/2) of the normal
62 compensation for the position in any month, constitute a month of
63 creditable service, nor shall more than one (1) year of service be
64 creditable for all services rendered in any one (1) fiscal year;
65 however, for a school employee, substantial completion of the
66 legal school term when and where the service was rendered shall
67 constitute a year of service credit. Any state or local elected
68 official shall be deemed a full-time employee for the purpose of
69 creditable service. However, an appointed or elected official
70 compensated on a per diem basis only shall not be allowed
71 creditable service for terms of office.

72 (c) In the computation of any retirement allowance or
73 any annuity or benefits provided in this article, any fractional
74 period of service of less than one (1) year shall be taken into



75 account and a proportionate amount of such retirement allowance,
76 annuity or benefit shall be granted for any such fractional period
77 of service.

78 (d) (i) In the computation of unused leave for
79 creditable service authorized in Section 25-11-103, the following
80 shall govern for members who retire before July 1, 2017:
81 twenty-one (21) days of unused leave shall constitute one (1)
82 month of creditable service and in no case shall credit be allowed
83 for any period of unused leave of less than fifteen (15) days.
84 The number of months of unused leave shall determine the number of
85 quarters or years of creditable service in accordance with the
86 above schedule for membership and prior service.

87 (ii) In the computation of unused leave for
88 creditable service authorized in Section 25-11-103, the following
89 shall govern for members who retire on or after July 1, 2017:
90 creditable service for unused leave shall be calculated in monthly
91 increments in which one (1) month of service credit shall be
92 awarded for each twenty-one (21) days of unused leave, except that
93 the first fifteen (15) to fifty-seven (57) days of leave shall
94 constitute three (3) months of service for those who became a
95 member of the system before July 1, 2017.

96 (iii) In order for the member to receive
97 creditable service for the number of days of unused leave under
98 this paragraph, the system must receive certification from the
99 governing authority.



100 (e) For the purposes of this subsection, members of the
101 system who retire on or after July 1, 2010, shall receive credit
102 for one-half (1/2) day of leave for each full year of membership
103 service accrued after June 30, 2010. The amount of leave received
104 by a member under this paragraph shall be added to the lawfully
105 credited unused leave for which creditable service is provided
106 under Section 25-11-103(i).

107 (f) For the purpose of this subsection, for members of
108 the system who are elected officers and who retire on or after
109 July 1, 1987, the following shall govern:

110 (i) For service before July 1, 1984, the members
111 shall receive credit for leave (combined personal and major
112 medical) for service as an elected official before that date at
113 the rate of thirty (30) days per year.

114 (ii) For service on and after July 1, 1984, the
115 member shall receive credit for personal and major medical leave
116 beginning July 1, 1984, at the rates authorized in Sections
117 25-3-93 and 25-3-95, computed as a full-time employee.

118 (iii) If a member is employed in a covered
119 nonelected position and a covered elected position simultaneously,
120 that member may not receive service credit for accumulated unused
121 leave for both positions at retirement for the period during which
122 the member was dually employed. During the period during which
123 the member is dually employed, the member shall only receive



124 credit for leave as provided for in this paragraph for an elected
125 official.

126 (3) Subject to the above restrictions and to such other
127 rules and regulations as the board may adopt, the board shall
128 verify, as soon as practicable after the filing of such statements
129 of service, the services therein claimed.

130 (4) Upon verification of the statement of prior service, the
131 board shall issue a prior service certificate certifying to each
132 member the length of prior service for which credit shall have
133 been allowed on the basis of his statement of service. So long as
134 membership continues, a prior service certificate shall be final
135 and conclusive for retirement purposes as to such service,
136 provided that any member may within five (5) years from the date
137 of issuance or modification of such certificate request the board
138 of trustees to modify or correct his prior service certificate.
139 Any modification or correction authorized shall only apply
140 prospectively.

141 When membership ceases, such prior service certificates shall
142 become void. Should the employee again become a member, he shall
143 enter the system as an employee not entitled to prior service
144 credit except as provided in Sections 25-11-105(I), 25-11-113 and
145 25-11-117.

146 (5) Creditable service at retirement, on which the
147 retirement allowance of a member shall be based, shall consist of
148 the membership service rendered by him since he last became a



149 member, and also, if he has a prior service certificate that is in
150 full force and effect, the amount of the service certified on his
151 prior service certificate.

152 (6) Any member who served on active duty in the Armed Forces
153 of the United States, who served in the Commissioned Corps of the
154 United States Public Health Service before 1972 or who served in
155 maritime service during periods of hostility in World War II,
156 shall be entitled to creditable service at no cost for his service
157 on active duty in the Armed Forces, in the Commissioned Corps of
158 the United States Public Health Service before 1972 or in such
159 maritime service, provided he entered state service after his
160 discharge from the Armed Forces or entered state service after he
161 completed such maritime service. The maximum period for such
162 creditable service for all military service as defined in this
163 subsection (6) shall not exceed four (4) years unless positive
164 proof can be furnished by such person that he was retained in the
165 Armed Forces during World War II or in maritime service during
166 World War II by causes beyond his control and without opportunity
167 of discharge. The member shall furnish proof satisfactory to the
168 board of trustees of certification of military service or maritime
169 service records showing dates of entrance into active duty service
170 and the date of discharge. From and after July 1, 1993, no
171 creditable service shall be granted for any military service or
172 maritime service to a member who qualifies for a retirement
173 allowance in another public retirement system administered by the



174 Board of Trustees of the Public Employees' Retirement System
175 based, in whole or in part, on such military or maritime service.
176 In no case shall the member receive creditable service if the
177 member received a dishonorable discharge from the Armed Forces of
178 the United States.

179 (7) (a) Any member of the Public Employees' Retirement
180 System whose membership service is interrupted as a result of
181 qualified military service within the meaning of Section 414(u) (5)
182 of the Internal Revenue Code, and who has received the maximum
183 service credit available under subsection (6) of this section,
184 shall receive creditable service for the period of qualified
185 military service that does not qualify as creditable service under
186 subsection (6) of this section upon reentering membership service
187 in an amount not to exceed five (5) years if:

188 (i) The member pays the contributions he would
189 have made to the retirement system if he had remained in
190 membership service for the period of qualified military service
191 based upon his salary at the time his membership service was
192 interrupted;

193 (ii) The member returns to membership service
194 within ninety (90) days of the end of his qualified military
195 service; and

196 (iii) The employer at the time the member's
197 service was interrupted and to which employment the member returns
198 pays the contributions it would have made into the retirement



199 system for such period based on the member's salary at the time
200 the service was interrupted.

201 (b) The payments required to be made in paragraph
202 (a) (i) of this subsection may be made over a period beginning with
203 the date of return to membership service and not exceeding three
204 (3) times the member's qualified military service; however, in no
205 event shall such period exceed five (5) years.

206 (c) The member shall furnish proof satisfactory to the
207 board of trustees of certification of military service showing
208 dates of entrance into qualified service and the date of discharge
209 as well as proof that the member has returned to active employment
210 within the time specified.

211 (8) Any member of the Public Employees' Retirement System
212 who became a member of the system before July 1, 2007, and who has
213 at least four (4) years of membership service credit, or who
214 became a member of the system on or after July 1, 2007, and who
215 has at least eight (8) years of membership service credit, shall
216 be entitled to receive a maximum of five (5) years' creditable
217 service for service rendered in another state as a public employee
218 of such other state, or a political subdivision, public education
219 system or other governmental instrumentality thereof, or service
220 rendered as a teacher in American overseas dependent schools
221 conducted by the Armed Forces of the United States for children of
222 citizens of the United States residing in areas outside the
223 continental United States, provided that:



224 (a) The member shall furnish proof satisfactory to the
225 board of trustees of certification of such services from the
226 state, public education system, political subdivision or
227 retirement system of the state where the services were performed
228 or the governing entity of the American overseas dependent school
229 where the services were performed; and

230 (b) The member is not receiving or will not be entitled
231 to receive from the public retirement system of the other state or
232 from any other retirement plan, including optional retirement
233 plans, sponsored by the employer, a retirement allowance including
234 such services; and

235 (c) The member shall pay to the retirement system on
236 the date he or she is eligible for credit for such out-of-state
237 service or at any time thereafter before the date of retirement
238 the actuarial cost as determined by the actuary for each year of
239 out-of-state creditable service. The provisions of this
240 subsection are subject to the limitations of Section 415 of the
241 Internal Revenue Code and regulations promulgated under that
242 section.

243 (9) Any member of the Public Employees' Retirement System
244 who became a member of the system before July 1, 2007, and has at
245 least four (4) years of membership service credit, or who became a
246 member of the system on or after July 1, 2007, and has at least
247 eight (8) years of membership service credit, and who receives, or
248 has received, professional leave without compensation for



249 professional purposes directly related to the employment in state
250 service shall receive creditable service for the period of
251 professional leave without compensation provided:

252 (a) The professional leave is performed with a public
253 institution or public agency of this state, or another state or
254 federal agency;

255 (b) The employer approves the professional leave
256 showing the reason for granting the leave and makes a
257 determination that the professional leave will benefit the
258 employee and employer;

259 (c) Such professional leave shall not exceed two (2)
260 years during any ten-year period of state service;

261 (d) The employee shall serve the employer on a
262 full-time basis for a period of time equivalent to the
263 professional leave period granted immediately following the
264 termination of the leave period;

265 (e) The contributing member shall pay to the retirement
266 system the actuarial cost as determined by the actuary for each
267 year of professional leave. The provisions of this subsection are
268 subject to the regulations of the Internal Revenue Code
269 limitations;

270 (f) Such other rules and regulations consistent
271 herewith as the board may adopt and in case of question, the board
272 shall have final power to decide the questions.



273 Any actively contributing member participating in the School
274 Administrator Sabbatical Program established in Section 37-9-77
275 shall qualify for continued participation under this subsection
276 (9).

277 (10) Any member of the Public Employees' Retirement System
278 who became a member of the system before July 1, 2007, and has at
279 least four (4) years of credited membership service, or who became
280 a member of the system on or after July 1, 2007, and has at least
281 eight (8) years of credited membership service, shall be entitled
282 to receive a maximum of ten (10) years creditable service for:

283 (a) Any service rendered as an employee of any
284 political subdivision of this state, or any instrumentality
285 thereof, that does not participate in the Public Employees'
286 Retirement System; or

287 (b) Any service rendered as an employee of any
288 political subdivision of this state, or any instrumentality
289 thereof, that participates in the Public Employees' Retirement
290 System but did not elect retroactive coverage; or

291 (c) Any service rendered as an employee of any
292 political subdivision of this state, or any instrumentality
293 thereof, for which coverage of the employee's position was or is
294 excluded; provided that the member pays into the retirement system
295 the actuarial cost as determined by the actuary for each year, or
296 portion thereof, of such service. After a member has made full
297 payment to the retirement system for all or any part of such



298 service, the member shall receive creditable service for the
299 period of such service for which full payment has been made to the
300 retirement system.

301 (11) This subsection shall be known as the First Responders
302 Retirement Incentive. Any member who is a first responder as
303 defined in Section 25-15-403, who became a member of the system on
304 or after July 1, 2011, and who has at least four (4) years of
305 membership service credit shall be entitled to receive one (1)
306 additional year of creditable service for every five (5) years of
307 service as a first responder in the State of Mississippi, at no
308 cost to the member. However, in order for a member to use any of
309 the creditable service provided under this subsection in order to
310 have the minimum number of years of creditable service for
311 retirement, the member must be in good standing and not have any
312 felony convictions at the time of retirement.

313 **SECTION 2.** Section 25-11-127, Mississippi Code of 1972, is
314 amended as follows:

315 25-11-127. (1) (a) No person who is being paid a
316 retirement allowance or a pension after retirement under this
317 article shall be employed or paid for any service by the State of
318 Mississippi, including services as an employee, contract worker,
319 contractual employee or independent contractor, until the retired
320 person has been retired for not less than ninety (90) consecutive
321 days from his or her effective date of retirement. After the
322 person has been retired for not less than ninety (90) consecutive



323 days from his or her effective date of retirement or such later
324 date as established by the board, he or she may be reemployed
325 while being paid a retirement allowance under the terms and
326 conditions provided in this section.

327 (b) No retiree of this retirement system who is
328 reemployed or is reelected to office after retirement shall
329 continue to draw retirement benefits while so reemployed, except
330 as provided in this section.

331 (c) No person employed or elected under the exceptions
332 provided for in this section shall become a member under Article 3
333 of the retirement system.

334 (2) Any person who has been retired under the provisions of
335 Article 3 and who is later reemployed in service covered by this
336 article shall cease to receive benefits under this article and
337 shall again become a contributing member of the retirement system.
338 When the person retires again, if the reemployment exceeds six (6)
339 months, the person shall have his or her benefit recomputed,
340 including service after again becoming a member, provided that the
341 total retirement allowance paid to the retired member in his or
342 her previous retirement shall be deducted from the member's
343 retirement reserve and taken into consideration in recalculating
344 the retirement allowance under a new option selected.

345 (3) The board shall have the right to prescribe rules and
346 regulations for carrying out the provisions of this section.



347 (4) The provisions of this section shall not be construed to
348 prohibit any retiree, regardless of age, from being employed and
349 drawing a retirement allowance either:

350 (a) For a period of time not to exceed one-half (1/2)
351 of the normal working days for the position in any fiscal year
352 during which the retiree will receive no more than one-half (1/2)
353 of the salary in effect for the position at the time of
354 employment, or

355 (b) For a period of time in any fiscal year sufficient
356 in length to permit a retiree to earn not in excess of twenty-five
357 percent (25%) of retiree's average compensation.

358 To determine the normal working days for a position under
359 paragraph (a) of this subsection, the employer shall determine the
360 required number of working days for the position on a full-time
361 basis and the equivalent number of hours representing the
362 full-time position. The retiree then may work up to one-half
363 (1/2) of the required number of working days or up to one-half
364 (1/2) of the equivalent number of hours and receive up to one-half
365 (1/2) of the salary for the position. In the case of employment
366 with multiple employers, the limitation shall equal one-half (1/2)
367 of the number of days or hours for a single full-time position.

368 Notice shall be given in writing to the executive director,
369 setting forth the facts upon which the employment is being made,
370 and the notice shall be given within five (5) days from the date



371 of employment and also from the date of termination of the
372 employment.

373 (5) The provisions of this section shall not be construed to
374 prohibit any retiree, regardless of age, from being employed as a
375 law enforcement officer with a law enforcement department that has
376 a critical need for or shortage of law enforcement officers and
377 drawing the full amount of the retiree's retirement allowance,
378 during which time the retiree may work the full number of normal
379 working days for the position and receive the full amount of the
380 salary in effect for the position at the time of employment.
381 Before a retiree may be employed by a law enforcement department
382 under this subsection, the department must provide satisfactory
383 evidence with quantifiable numbers to the Public Employees'
384 Retirement System of the existence of a critical need for or
385 shortage of law enforcement officers in the department. For the
386 purposes of this subsection, "law enforcement officer" means any
387 person who has met the minimum educational and training standards
388 established by the Board on Law Enforcement Officer Standards and
389 Training for permanent, full-time law enforcement officers and has
390 received a certificate from that board.

391 (6) Except as otherwise provided in subsection (* * *7) of
392 this section, the employer of any person who is receiving a
393 retirement allowance and who is employed in service covered by
394 subsection (4) and (5) of this section as an employee or a
395 contractual employee shall pay to the board the full amount of the



396 employer's contribution on the amount of compensation received by
397 the retiree for his or her employment in accordance with
398 regulations prescribed by the board. The retiree shall not
399 receive any additional creditable service in the retirement system
400 as a result of the payment of the employer's contribution. This
401 subsection does not apply to persons who are receiving a
402 retirement allowance and who contract with an employer to provide
403 services as a true independent contractor, as defined by the board
404 through regulation.

405 (* * *7) (a) A member may retire and continue in municipal
406 or county elective office provided that the member has reached the
407 age and/or service requirement that will not result in a
408 prohibited in-service distribution as defined by the Internal
409 Revenue Service, or a retiree may be elected to a municipal or
410 county office, provided that the person:

411 (i) Files annually, in writing, in the office of
412 the employer and the office of the executive director of the
413 system before the person takes office or as soon as possible after
414 retirement, a waiver of all salary or compensation and elects to
415 receive in lieu of that salary or compensation a retirement
416 allowance as provided in this section, in which event no salary or
417 compensation shall thereafter be due or payable for those
418 services; however, any such officer or employee may receive, in
419 addition to the retirement allowance, office expense allowance,



420 mileage or travel expense authorized by any statute of the State
421 of Mississippi; or

422 (ii) Elects to receive compensation for that
423 elective office in an amount not to exceed twenty-five percent
424 (25%) of the retiree's average compensation. In order to receive
425 compensation as allowed in this subparagraph, the retiree shall
426 file annually, in writing, in the office of the employer and the
427 office of the executive director of the system, an election to
428 receive, in addition to a retirement allowance, compensation as
429 allowed in this subparagraph.

430 (b) The municipality or county in which the retired
431 person holds elective office shall pay to the board the amount of
432 the employer's contributions on the full amount of the regular
433 compensation for the elective office that the retired person
434 holds.

435 (c) As used in this subsection, the term "compensation"
436 does not include office expense allowance, mileage or travel
437 expense authorized by a statute of the State of Mississippi.

438 **SECTION 3.** This act shall take effect and be in force from
439 and after July 1, 2024.

